97TH CONGRESS
2d Session

SENATE

EXECUTIVE REPT.
No. 97-47

TREATY OF FRIENDSHIP WITH TUVALU

FEBRUARY 11 (legislative day, JANUARY 25), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Ex. W, 96-1]

The Committee on Foreign Relations, to which was referred the Treaty of Friendship between the Government of the United States of America and the Government of Tuvalu, signed at Funafuti on February 7, 1979, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The primary purpose of the treaty is to settle on terms acceptable to both governments the conflicting claims to islands in Tuvalu (formerly the Ellice Islands) in the South Pacific Ocean.

BACKGROUND

The territory covered in the renunciation of claim includes Funafuti, the capital of Tuvalu (formerly the Ellice Islands). The Islands were discovered in March 1819, by an American merchant vessel. During 1840–41 the four islands were mapped by the United States exploration expedition under Commander Charles Wilkes, United States Navy. The United States first formally declared sovereignty over the islands in 1939. During World War II the United States built and manned military bases in Funafuti and Nukufetau, but these were abandoned after the War, and the United States established no other presence on the islands.

Great Britain proclaimed the Ellice Islands, including the four islands, a protectorate in September 1892. In 1915 the islands were annexed by the British as part of the Gilbert and Ellice Islands Colony. The Ellice Islands were separated from the Gilberts in 1975 and became known as Tuvalu. The United States took no action to

89-119 O

S 384-2

dispute the British claim for almost a half century following the 1892 British proclamation of protectorate status for the Ellice Islands. The only resource in the area are the fisheries located off shore.

In preparation for the independence of Tuvalu on October 1, 1978, a delegation from the United States met with representatives of the Government of Tuvalu to negotiate the Treaty of Friendship. Further meetings in Tuvalu led to a successful conclusion of the negotiations, and the United States-Tuvalu Treaty of Friendship was signed on February 7, 1979, in Funafuti.

Under the terms of the Treaty, the United States renounces all claims to sovereignty over Funafuti Atoll, Nukufetau Atoll, and the islands known as Nukulaelae (or Nukulailai), and Niulakita (or Nurakia).

The Secretary of State has stated that the terms of the Treaty accord with the interests and desires of both parties and promote United States foreign policy objectives in the South Pacific.

The primary interests of the United States in the region are: to promote a secure and peaceful South Pacific, to assure nondiscriminatory future access to the marine resources of the region, and to assure that the supply of fish from Tuvaluan waters to the canneries in American Samoa is continued. This contributes materially to the viability of the economy of American Samoa. The Tuvalu Treaty protects each of these interests.

The Secretary has further stated that by renouncing its claims the United States removes a potentially disruptive dispute with this tiny independent nation (population 8,000) and demonstrates to the South Pacific island states that the United States seeks a close, friendly and cooperative relationship with the independent states of the region.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on December 1, 1981. The following individuals have testified on this treaty: Deputy Assistant Secretary of State for East Asian and Pacific Affairs Daniel A. O'Donohue; Ambassador William Bodde, U.S. Ambassador in Fiji; Rear Admiral Donald S. Jones, Director for East Asian and Pacific Affairs in the Office of the Assistant Secretary of Defense for International Security Affairs; Mr. Terry Fortune, Assistant Legal Advisor for East Asia, Department of State; Mr. David Colson, Associate Legal Advisor for Oceans, Environmental and Scientific Affairs, Department of State; the Honorable Peter Coleman, Governor of American Samoa; Mr. Mark J. Seidenberg of Los Angeles, California; and the Honorable Frederick Rohlfing of Honolulu, Minority Leader of the Hawaii House of Representatives.

On January 28, 1982 the Committee considered the Treaty, but, in the absence of a physical quorum, deferred a vote until February 2. On this date, the Committee, by a vote of 13 to 2, ordered it reported favorably to the Senate for its advice and consent. Voting in favor of the Treaty were Senators Percy, Baker, Hayakawa, Lugar, Kassebaum, Boschwitz, Pressler, Pell, Biden, Glenn, Tsongas, Cranston, and Dodd. In opposition were Senators Helms and Zorinsky.

SECTION-BY-SECTION ANALYSIS

The Department of State has provided the following section-by-section analysis of the Treaty:

Article I of the Treaty recognizes the sovereignty of the Republic of Kiribati over the islands in question.

Articles II and III provide for consultation in times of "international crisis" should the United States request the use of Tuvaluan territory for military purposes, or should Tuvalu request assistance and support. The two governments also agree to consult regarding any use of Tuvaluan territory for military purposes by third parties. These consultations will contribute to the peace and stability of the region.

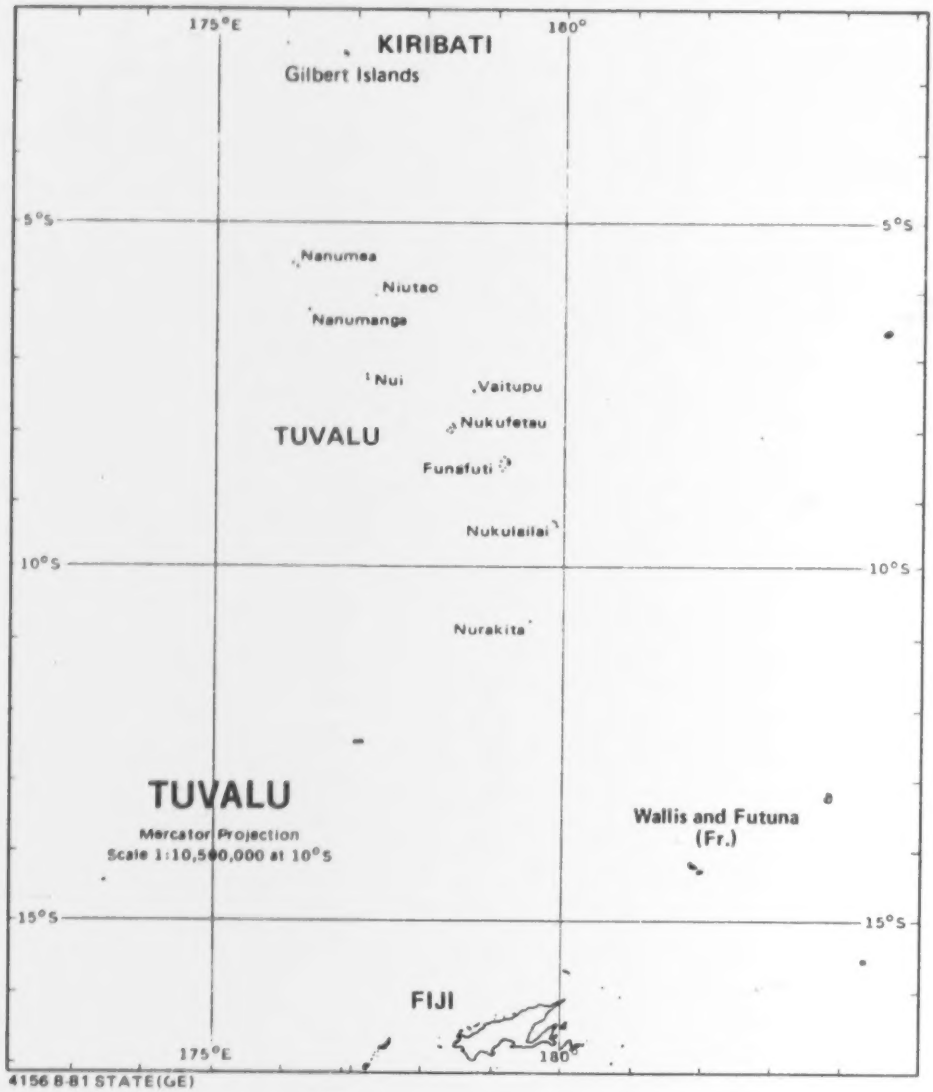
Article IV provides for cooperation between Tuvalu and American Samoa in the economic development of fisheries off their respective coasts. Finally, the United States and Tuvalu agree to consult directly and through regional organizations in matters relating to conservation, management, utilization, and exploitation of fisheries resources for mutual benefit.

COST ESTIMATE

The treaty will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds, according to the Administration.

TEXT OF RESOLUTION OF RATIFICATION

Resolved, (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Treaty of Friendship Between the United States of America and Tuvalu, signed at Funafuti on February 7, 1979.



BEST COPY AVAILABLE

97TH CONGRESS
2d Session

SENATE

EXECUTIVE REPT.
No. 97-48

TREATY OF FRIENDSHIP WITH THE REPUBLIC OF KIRIBATI

FEBRUARY 11 (legislative day, JANUARY 25), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Ex. A, 96-2]

The Committee on Foreign Relations, to which was referred the Treaty between the United States of America and the Republic of Kiribati, signed at Tarawa on September 20, 1979, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The primary purpose of the treaty is to settle on terms acceptable to both governments the conflicting claims to 14 islands in Kiribati (formerly the Gilbert Islands) in the South Pacific Ocean.

BACKGROUND

The British originally asserted sovereignty over these islands at the end of the nineteenth century, and in 1937 the boundaries of the Gilbert and Ellice Islands Colony were extended to encompass the 14 islands in question. The United States did nothing to contest British sovereignty until 1939. That year the United States, in a diplomatic note to the United Kingdom, formally asserted a claim to the 14 islands in the Phoenix and Line Island groups and 11 other South Pacific Islands.

The United States claim to these islands was initially based on a combination of discovery and the issuance of United States guano mining bonds in the nineteenth century. In addition, since that time, United States citizens have lived on some of the islands. During World War II and the late 1950's, the United States built and manned military bases on Christmas Island. From 1937 until mid-1979 United States personnel were posted on Canton Island.

89-119 O

S384-3

To resolve the diplomatic dispute between the United States and the United Kingdom over conflicting claims to Canton and Enderbury Islands, the two Governments signed an agreement on April 6, 1939, providing for joint administration without prejudice to the claim of either party. In 1970 the United States Air Force became the sole administrator of Canton, Enderbury and Hull Islands under a second agreement with the British, but in recognition of the continuing British interest in the islands, the United States agreed to compensate the United Kingdom annually for ten years.

Following a Department of Defense decision on March 19, 1979, that the Canton complex was no longer needed, Air Force contract personnel left the islands just before Kiribati independence on July 12, 1979. For the period between the departure of the Air Force until the date upon which the new treaty enters into force, the Governor of American Samoa has been appointed as the agent for the Department of the Interior with responsibility for Canton Island and there is an American Samoan representative on the island.

The negotiations which led to the current Treaty of Friendship were undertaken with the United Kingdom and the Government of Kiribati in preparation for the independence of Kiribati in July 1979.

Under the terms of the Treaty, the United States renounces all claims to sovereignty over the islands of Canton, Enderbury, Hull, Birnie, Gardner, Phoenix, Sydney, McKean, Christmas, Caroline, Starbuck, Maldin, Flint and Vostok.

The Secretary of State has attested that the terms of the Treaty accord with the interest and desires of both parties and promote United States foreign policy objectives in the South Pacific. The primary interests of the United States in the region are to promote a secure and peaceful South Pacific, to assure nondiscriminatory future access to the marine resources of the region, and to assure a continued supply of fish from Kiribati waters to the canneries in American Samoa in order to maintain a viable economy in American Samoa. The Kiribati Treaty protects each of these interests.

The Secretary further states that by renouncing its claims to the disputed islands, the United States removes a potentially disruptive dispute with this developing nation and demonstrates to the South Pacific nations that we seek a close, friendly and cooperative relationship with the independent states of the region.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on December 1, 1981. The following individuals have testified on this treaty: Deputy Assistant Secretary of State for East Asian and Pacific Affairs Daniel A. O'Donohue; Ambassador William Bodde, U.S. Ambassador in Fiji; Rear Admiral Donald S. Jones, Director for East Asian and Pacific Affairs in the Office of the Assistant Secretary of Defense for International Security Affairs; Mr. Terry Fortune, Assistant Legal Advisor for East Asia, Department of State; Mr. David Colman, Associate Legal Advisor for Oceans, Environmental and Scientific Affairs, Department of State; the Honorable Peter Coleman, Governor of American Samoa; Mr. Mark J. Seidenberg of Los Angeles, California; and the Honorable Frederick W. Rohlfing of Honolulu, Minority Leader of the Hawaii House of Representatives.

On January 28, 1982 the Committee considered the treaty, but in the absence of a physical quorum, deferred a vote until February 2. On this date, the Committee, by a vote of 13 to 2, ordered it reported favorably to the Senate for its advice and consent. Voting in favor of the treaty were Senators Percy, Baker, Hayakawa, Lugar, Kassebaum, Boschwitz, Pressler, Pell, Biden, Glenn, Tsongas, Cranston, and Dodd. In opposition were Senators Helms and Zorinsky.

SECTION-BY-SECTION ANALYSIS

The Department of State has provided the following section-by-section analysis of the treaty:

Article 1 of the Treaty recognizes the sovereignty of the Republic of Kiribati over the islands in question.

Article 2 provides for consultation on matters of mutual concern and need and specifies that any military use of the islands by third parties shall be the subject of such consultations. Under Article 3, any future U.S. use of the American-built facilities on Canton, Enderbury and Hull will be in accordance with agreements to be negotiated between the two Governments. The Government of Kiribati also agrees that the facilities will not be made available to third parties for military purposes except with the agreement of the Government of the United States.

Article 4 provides for consultation regarding matters relating to conservation, management and utilization of fisheries of mutual interest. The two governments also agree to encourage and facilitate cooperative arrangements and fishing ventures.

Article 5 provides for cooperation between the two countries in protecting the unique material and cultural resources of Kiribati, and encourages scientific research and cultural exchanges.

In Article 6 the parties agree to encourage joint utilization of the facilities constructed by the United States on Canton.

Under Article 7, the Treaty will be subject to termination by either party on six months notice after it has been in force for ten years. Article 1, which contains the renounciation by the United States of claims to the 14 islands, is not subject to termination.

In an Agreed Minute to the Treaty, the Government of Kiribati gives its assurances that applications by United States flag vessels or vessels supplying canneries in American Samoa for licenses to fish within Kiribati fishery limits will be sympathetically considered without discrimination and without regard to fishing methods.

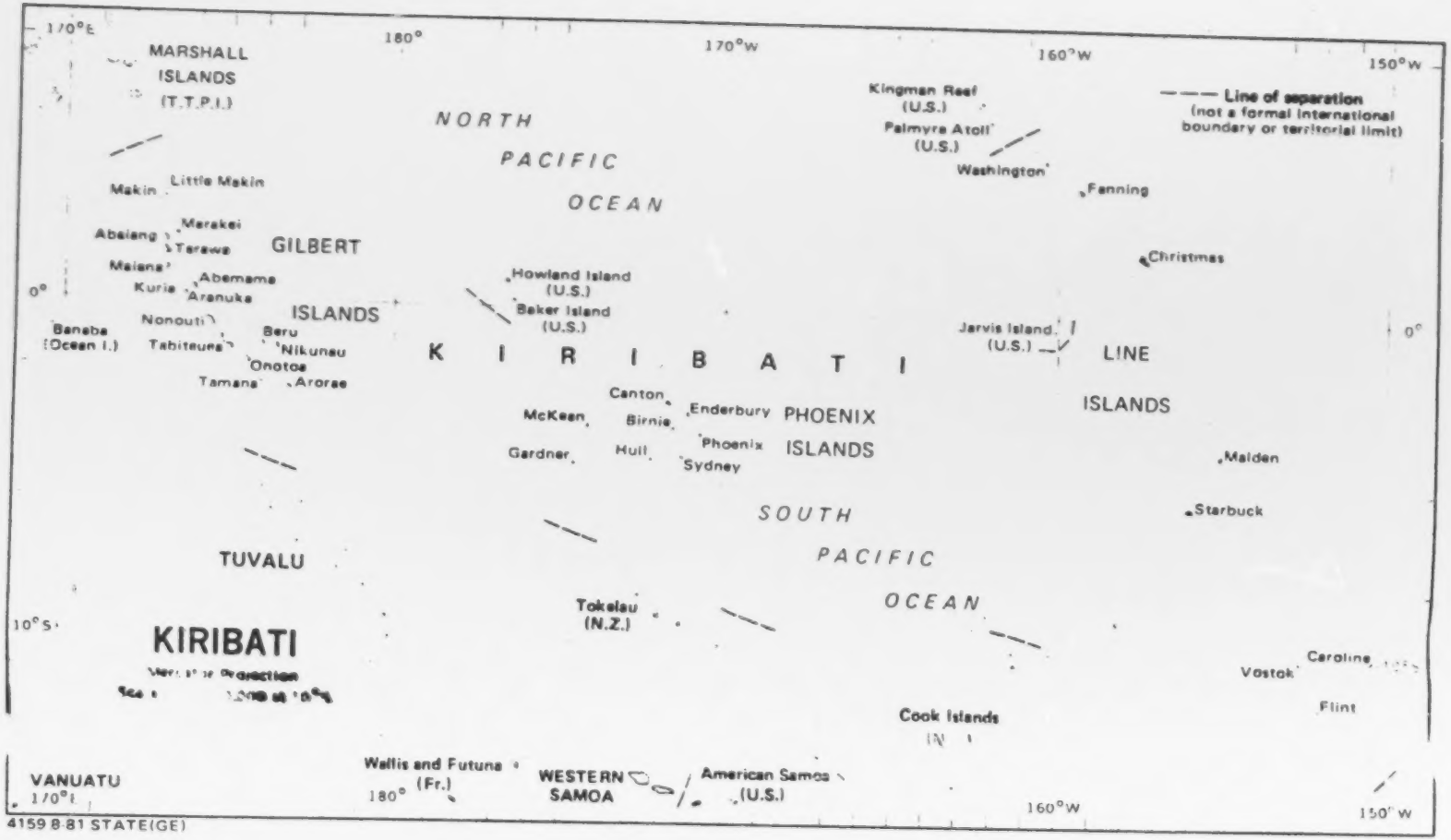
COST ESTIMATE

The treaty will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds, according to the Administration.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Treaty of Friendship Between the United States of America and the Republic of Kiribati, together with an agreed minute relating thereto, signed at Tarawa on September 20, 1979.

BEST COPY AVAILABLE



4159 8-81 STATE(GE)